

DEC 13 2007

FEDERAL ELECTION COMMISSION

**999 E Street, N.W.
Washington, D.C. 20463**

FIRST GENERAL COUNSEL'S REPORT

Pre-MUR: 443

DATE RECEIVED: December 4, 2006

DATE ACTIVATED: March 21, 2007

DATE DE-ACTIVATED: June 1, 2007¹

RE-ACTIVATED: September 11, 2007

EXPIRATION OF STATUTE OF

LIMITATIONS: June 7, 2010

MUR: 5927

DATE COMPLAINT FILED: July 19, 2007

DATE OF NOTIFICATION: July 23, 2007

DATE ACTIVATED: September 11, 2007

LAST RESPONSE RECEIVED: Nov. 30, 2007

EXPIRATION OF STATUTE OF

LIMITATIONS: June 7, 2010

COMPLAINANT: The Beacon Mutual Insurance Co.

**RESPONDENTS: Joseph A. Solomon
The Beacon Mutual Insurance Co.**

**RELEVANT STATUTES: 2 U.S.C. § 441f
2 U.S.C. § 441a(a)**

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

¹ The Beacon Mutual Insurance Co.'s initial submission had some characteristics of a *sub sponte* submission; however, it was directed at only one individual, Joseph A. Solomon. Pre-MUR 443 was deactivated after Beacon's counsel indicated that Beacon would submit a signed and notarized Complaint regarding Mr. Solomon's fundraising activities. We have now received a response to the Complaint, and Pre-MUR 443 was reactivated.

1 **I. INTRODUCTION**

2 The Beacon Mutual Insurance Co. ("Beacon") alleges that its former President and
3 Chief Executive Officer, Joseph A. Solomon,² may have violated the Federal Election
4 Campaign Act of 1971, as amended (the "Act"), by using personal funds to reimburse
5 contributions made by Pamela L. Alarie (Beacon's Director of Human Resources) and
6 Christina M. Burton (Mr. Solomon's Executive Assistant) to Whitehouse '06, the principal
7 campaign committee of Sheldon Whitehouse in the 2006 election for U.S. Senate from
8 Rhode Island.³ See Pre-MUR 443 Submission (Attachment 1) at 1⁴ and MUR 5927
9 Complaint.

10 Mr. Solomon, in his response to Beacon's Complaint ("Solomon Response"),
11 admitted that he used his personal funds to reimburse three individuals who contributed
12 \$1,000 each to Whitehouse '06: Ms. Alarie, Ms. Burton and Sheldon S. Sollosy (the former
13 Chairman of Beacon's Board of Directors). See Solomon Response (Attachment 2) at 2, 4.
14 Mr. Sollosy, in his response to our pre-reason to believe notification letter, stated that
15 Mr. Solomon gave him \$1,000 to make a contribution to Whitehouse '06. See Sollosy
16 Response (Attachment 3) at 5.

² Beacon's Board of Directors reportedly fired Mr. Solomon in April 2006 after an external audit revealed that Beacon improperly gave various clients price breaks. See AP Alert - Rhode Island, *Beacon faces grand jury subpoena. Two board members removed*, Associated Press (April 20, 2006). The F.B.I. is investigating Mr. Solomon's activities at Beacon.

³ On August 17, 2007, Whitehouse '06 amended its Statement of Organization to change its name to "Whitehouse for Senate." See Amended Statement of Organization dated August 17, 2007. However, for purposes of this Report we refer to the committee as Whitehouse '06 because that was its name at the time of the events referred to herein.

⁴ Because the pages of Beacon's initial submission were not sequentially numbered, we have numbered the pages of the submission and attached it to this Report for the Commission's convenience.

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1 Based on the available information, we recommend that the Commission: (1) find
2 reason to believe that Joseph A. Solomon knowingly and willfully violated 2 U.S.C.
3 §§ 441f and 441a(a) by making three contributions to Whitehouse '06 in the names of
4 others and making an excessive contribution to Whitehouse '06; and (2) find reason to
5 believe that Sheldon S. Sollosy violated 2 U.S.C. § 441f by knowingly permitting
6 Mr. Solomon to use his name to make a contribution to Whitehouse '06. In addition, for
7 the reasons stated below, we make no recommendations at this time with respect to Pamela
8 L. Alarie, Christina M. Burton, Beacon, or Whitehouse '06.

9 **II. FACTUAL AND LEGAL ANALYSIS**

10 **A. Summary of Beacon's Submission**

11 Beacon's investigation into Mr. Solomon's fundraising activities began after The
12 Providence Journal published an article, which disclosed Whitehouse '06's receipt of
13 contributions from Beacon's top executives.⁵ See Katherine Gregg, *Questions raised about*
14 *donors*, The Providence Journal, October 24, 2006. Attachment 1 at 4, 5. That article
15 caused Deloitte Financial Advisory Services LLP ("Deloitte"), auditors hired by Rhode
16 Island's Department of Business Regulation, to contact Clifford Parent, Beacon's interim
17 CEO, regarding the contributions. Deloitte raised several questions, including whether
18 reimbursements had been made either by individuals or by the company. *Id.* at 6.

19 In response to Deloitte's inquiry, Beacon requested each current employee who was
20 known to have contributed to the Whitehouse campaign in June 2005 to answer a

⁵ In or about June 2005, Whitehouse '06 received \$11,600 from Beacon's Board members, executives, and employees.

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1 questionnaire regarding their respective contribution.⁶ *See id.* at 2, 33. The questionnaire
2 asked, *inter alia*, whether the employee's contribution was reimbursed by Beacon "or any
3 other individual;" whether there was a promise of reimbursement by the company, such as a
4 bonus or other form of compensation; and whether the employee felt pressured or coerced
5 into making the contribution. *Id.* at 33.

6 In response to Beacon's questionnaire, Ms. Alarie and Ms. Burton stated that
7 Mr. Solomon personally reimbursed them for their contributions. *Id.* at 36, 37. Ms. Alarie
8 further stated that "months" later she gave the money back to Mr. Solomon. *Id.* at 37.
9 Finally, the responses suggest that Mr. Solomon offered to reimburse four other
10 subordinates who contributed to Whitehouse '06 at Mr. Solomon's request. In their
11 respective questionnaire responses, each of those individuals stated that they declined
12 Mr. Solomon's offer.⁷ *Id.* at 7, 34, 40, and 42.

13 B. Joseph A. Solomon

14 The Act provides that no person shall make a contribution in the name of another
15 person. 2 U.S.C. § 441f. Further, during the 2006 election cycle, the Act limited the
16 amount a person could contribute to any candidate for Federal office and his authorized
17 political committees to \$2,100 per election. 2 U.S.C. § 441a(a)(1)(A).

18 As noted earlier, Mr. Solomon, in a sworn Declaration ("Solomon Declaration"),
19 admits that he reimbursed Ms. Alarie, Ms. Burton, and Mr. Sollosy for their respective

⁶ It appears that Mr. Sollosy was not asked to respond to the questionnaire because he resigned his position as Chairman of Beacon's Board of Directors in February 2006 (*see* Attachment 3 at 4), eight months before the questionnaire was sent out. *See* Attachment 1 at 33.

⁷ According to questionnaire responses, Mr. Solomon did not offer to reimburse two other subordinates who contributed to Whitehouse '06. *See* Attachment 1 at 38, 44.

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1 \$1,000 contributions to Whitehouse '06.⁸ See Solomon Declaration ¶ 5 (Attachment 2
2 at 4). Mr. Solomon used his personal funds to make the reimbursements. See Attachment 2
3 at 2. Thus, because Mr. Solomon reimbursed three individuals who made contributions to
4 Whitehouse '06, he, in fact, made the contributions in their names.⁹ Mr. Solomon also
5 made a \$2,100 contribution in his own name to Whitehouse '06 on June 2, 2005. When
6 Mr. Solomon's \$2,100 contribution is aggregated with the \$3,000 in contributions he made
7 in the names of Ms. Alarie, Ms. Burton, and Mr. Sollosy, he exceeded the Act's
8 contribution limit by \$3,000. Therefore, there is reason to believe that Mr. Solomon
9 violated 2 U.S.C. §§ 441f and 441a(a).

10 Moreover, it appears that Mr. Solomon's conduct may have been knowing and
11 willful. The phrase "knowing and willful" indicates that "acts were committed with full
12 knowledge of all the relevant facts and a recognition that the action is prohibited by law...."
13 122 Cong. Rec. H3778 (daily ed. May 3, 1976); see also *AFL-CIO v. FEC*, 628 F.2d 97-98,
14 101-02 (D.C. Cir.), cert. denied, 449 U.S. 982 (1980) (noting that a "willful" violation
15 includes "such reckless disregard of the consequences as to be equivalent to a knowing,
16 conscious, and deliberate flaunting of the Act," but concluding on the facts before it that
17 this standard was not met) (cited in *National Right to Work Comm. v. FEC*, 716 F.2d 1401,
18 1403 (D.C. Cir. 1983)).

19 Mr. Solomon states that he "did not believe that reimbursing someone who wanted
20 to make a contribution was considered making a contribution in the name of another and
21 was therefore improper." See Solomon Declaration ¶ 6 (Attachment 2 at 4). However,

⁸ Whitehouse '06 reported the respective \$1,000 contributions as having been made by Pamela L. Alarie, Christina M. Burton, and Sheldon S. Sollosy.

⁹ As noted, Pamela Alarie stated that she ultimately gave the money back to Mr. Solomon. Sheldon Sollosy also returned the money, long after the contribution. See Attachment 3 at 5.

1 there is information from which the Commission can infer that Mr. Solomon knew that his
2 conduct was prohibited by law. Specifically, it appears that Mr. Solomon was aware that an
3 individual donor could contribute no more than \$2,100 per election during 2005, as he
4 contributed exactly \$2,100 to Whitehouse '06 for the primary election. After making the
5 maximum allowable individual contribution to Whitehouse '06, Mr. Solomon offered to
6 personally reimburse six subordinates and then-Chairman Sheldon Sollosy for making
7 \$1,000 contributions to Whitehouse '06. Attachment 1 at 7, 34, 36, 37, 40, and 42. As
8 noted, Mr. Solomon did ultimately reimburse two of his subordinates as well as
9 Mr. Sollosy.

10 Based upon these facts, the Commission can draw an inference that Mr. Solomon
11 intended to circumvent the individual contribution limit per election by using his
12 subordinates and Mr. Sollosy to make additional contributions to Whitehouse '06 with his
13 own personal funds. Accordingly, we recommend that the Commission find reason to
14 believe that Joseph A. Solomon knowingly and willfully violated 2 U.S.C §§ 441f and
15 441a(a).¹⁰

16 **C. The Conduits**

17 The Act's prohibition on making contributions in the name of another also applies
18 to any person who knowingly permits his or her name to be used to effect such a
19 contribution. See 2 U.S.C. § 441f. By accepting money from Mr. Solomon for making
20 their respective contributions to Whitehouse '06, Ms. Alarie, Ms. Burton and Mr. Sollosy

¹⁰ In a number of recent matters involving Section 441f violations, the Commission has found that the conduct of the individuals reimbursing the contributors was knowing and willful. See, e.g., MUR 5903 (PBS&J Corp.), MUR 5849 (Bank of America), MUR 5818 (Fieger, Kenney & Johnson), MUR 5666 (MZM, Inc.), MUR 5504 (Karoly Law Offices), MUR 5366 (Edwards for Pres.), and MUR 5092 (Michael Lazaroff).

1 knowingly permitted Mr. Solomon to use their names to make a contribution to
2 Whitehouse '06.

3 **1. Pamela L. Alarie and Christina M. Burton**

4 We are not making a recommendation with respect to Ms. Alarie or Ms. Burton at
5 this time. Because they were Mr. Solomon's subordinates, their contributions may not have
6 been entirely voluntary. See MUR 5871 (Thomas W. Noe) General Counsel's Report # 2
7 (Commission took no action as to conduits who were employees or subordinates of Mr.
8 Noe and may have felt pressured to participate in Mr. Noe's reimbursement scheme). In
9 response to Beacon's questionnaire, Ms. Alarie stated: "I felt pressure to contribute because
10 Joe [Solomon] indicated to me that he was upset with one individual that was not willing to
11 participate. In an effort to remain in good standing with my boss, I participated."
12 Attachment 1 at 37. Ms. Burton, in her response to Beacon's questionnaire, stated: "I did
13 what I was asked to do by my boss." *Id.* at 36. Thus, we make no recommendation at this
14 time with respect to Pamela L. Alarie or Christina M. Burton.

15 **2. Sheldon S. Sollosy**

16 By contrast, conduit Sheldon S. Sollosy was not a subordinate of Mr. Solomon, but
17 rather was Beacon's Chairman at the time of his contribution to Whitehouse '06. Another
18 difference, noted in Mr. Sollosy's response, is that he was solicited for a contribution by
19 Whitehouse '06 -- not by Mr. Solomon. See Sollosy Declaration ¶ 8 (Attachment 3 at 5).
20 Mr. Sollosy stated that Mr. Solomon gave him \$1,000 to make the contribution to
21 Whitehouse '06. *Id.* Mr. Sollosy further stated that he gave the money back to

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1 Mr. Solomon on August 6, 2007, more than two years after he made the contribution.¹¹ *Id.*
2 Finally, Mr. Sollosy stated that he "did not think it was illegal to accept the \$1,000 from
3 Mr. Solomon or to contribute \$1,000 to Mr. Whitehouse." Sollosy Declaration ¶ 9
4 (Attachment 3 at 5). Nonetheless, because Mr. Sollosy knowingly permitted Mr. Solomon
5 to make a contribution to Whitehouse '06 in his name, we recommend that the Commission
6 find reason to believe that Sheldon S. Sollosy violated 2 U.S.C. § 441f.

7 **D. Beacon**

8 Based on the available information, it appears that company funds were not used to
9 reimburse Ms. Alarie, Ms. Burton, and Mr. Sollosy; rather, Mr. Solomon used his personal
10 funds. See Attachment 1 at 34; Attachment 2 at 2. Thus, we make no recommendation at
11 this time with respect to Beacon. See MUR 5871 (Thomas Noe) (Law firm not liable for
12 managing partner's 441f violation where personal funds, not the law firm's money, was
13 used to make the reimbursements); see also _____
14 MUR 5092 (Michael Lazaroff).

15 **E. Whitehouse '06**

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17 The Act makes it unlawful for any candidate, political committee, or other person to
18 knowingly accept or receive a contribution in the name of another. 2 U.S.C. § 441f. The
19 Act also prohibits any candidate or political committee from knowingly accepting any
20 contribution in violation of the contribution limits set forth in section 441a. 2 U.S.C.
21 § 441a(f). In this instance, there is no information that Whitehouse '06 accepted the
22 contributions from Ms. Alarie, Ms. Burton, and Mr. Sollosy with knowledge that
23 Mr. Solomon had reimbursed them for their contributions and thereby made an excessive

¹¹ Whitehouse '06 reported receiving Mr. Sollosy's contribution on May 31, 2005. See 2005 July 15th Quarterly Report.

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1 contribution. Therefore, we make no recommendation at this time with respect to
2 Whitehouse '06;

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6 **III. INVESTIGATION**

7 As noted, Beacon's internal investigation included questionnaires sent to current
8 employees who made contributions to Whitehouse '06, which led to the discovery of
9 Joseph A. Solomon's reimbursement of contributions by Pamela L. Alarie and Christina
10 M. Burton. In addition, Beacon's Finance Department reviewed all payments made to
11 members of the Senior Management Team in 2005 and 2006 to determine if there were any
12 \$1,000 payments made to any of those individuals. This review did not indicate that any
13 such payment was made. See Attachment 1 at 34. In light of Mr. Solomon's revelation that
14 he also reimbursed Sheldon S. Sollosy, we plan to conduct a focused investigation to
15 determine the extent of the violations, including whether Mr. Solomon reimbursed
16 contributions to other recipient committees. The investigation would also address
17 Mr. Solomon's knowledge of campaign finance law at the time he made the
18 reimbursements.

19 **IV. RECOMMENDATIONS**

- 20 1. Merge Pre-MUR 443 into MUR 5927.
21
22 2. Find reason to believe that Joseph A. Solomon knowingly and willfully
23 violated 2 U.S.C. §§ 441f and 441a(a).
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25 3. Find reason to believe that Sheldon S. Sollosy violated 2 U.S.C. § 441f.
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27 4. Approve the attached Factual and Legal Analyses.

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5. _____

6. Approve the appropriate letters.

Thomasenia P. Duncan
General Counsel

Date: 12/13/07

BY: 
Ann Marie Terzaken
Associate General Counsel
for Enforcement

Cynthia E. Tompkins by MA
Cynthia E. Tompkins
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Jack Gould
Jack Gould
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Mark Allen
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